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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,677	04/08/2004	Earl Vaughn Sevy		3219

7590 06/01/2007
EARL VAUGHN SEVY
4560 N. TOMAHAWK Dr.
ENOCH, UT 84720

EXAMINER

HOGAN, JAMES SEAN

ART UNIT	PAPER NUMBER
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3752

MAIL DATE	DELIVERY MODE
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06/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,677

Applicant(s)

SEVY, EARL VAUGHN

Examiner

James S. Hogan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "capillary space" of claim 1 as well as the "particulate separator" of claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,235,969 to Bellm.

As per claim 1, Bellm discloses (See Figure 9) an atomization jet assembly having a jet (19) and jet cap (13) where the jet has a top end (at 23) a bottom end (at 18) and a capillary break via the cap (see Fig. 9, directly below figure "23") near the top end and, a cavity (not numbered) extending from the bottom end to the top end, where the top end has an orifice (23), and the bottom end has an opening which leads from the outside surface of the jet (at 23) to the cavity. The cap (13) for the jet assembly has a hollow shaped structure, also having a top end and a bottom end, the top end having an orifice (28) in alignment with the orifice of the jet (23) the shape of the cap fits over the shape of the jet from the top end to the bottom end, where the shapes of each are similar (cylindrical, as per claim 2) such that a capillary space (29) exists between the jet and cap.

As per claim 3, Bellm teaches (See Figure 9) an atomization jet assembly having a base structure (12), particulate separator (41) and an atomization jet assembly having a jet (19) and jet cap (13) where the jet has a top end (at 23) a bottom end (at 18) and a

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capillary break via the cap (see Fig. 9, directly below figure "23") near the top end and, a cavity (not numbered) extending from the bottom end to the top end, where the top end has an orifice (23), and the bottom end has an opening which leads from the outside surface of the jet (at 23) to the cavity. The cap (13) for the jet assembly has a hollow shaped structure, also having a top end and a bottom end, the top end having an orifice (28) in alignment with the orifice of the jet (23) the shape of the cap fits over the shape of the jet from the top end to the bottom end, where the shapes of each are similar (cylindrical, as per claim 4) such that a capillary space (29) exists between the jet and cap. The base of Bellm has a top surface (at 34) a bottom surface (at 11) and an outer surface (at 14) connecting top surface top the bottom surface, the top surface having a cavity (formed with forks (102) and receives the bottom end of the jet (the bottom being beneath cap (130, which is beneath the cavity) and the bottom end of the separator, with the separator positioned over the jet assembly with the bottom resting in the cavity of the base

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 5,797,389 to Ryder

U.S. Patent No. 4,512,341 to Lester

U.S. Patent No. 5,435,282 to Haber et al

U.S. Patent No. 7,143,763 to Abate

U.S. Patent No. 6,796,513 to Fraccaroli

U.S. Patent No. 5,579,757 to McMahon et al

U.S. Patent No. 5,072,883 to Vidusek


U.S. Patent No. 4,007,238 to Glenn

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSH
5/22/2007


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700